



PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

January 30, 2015

VIA E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: EB-2014-0079 Halton Hills Hydro Inc.
Vulnerable Energy Consumers Coalition (VECC) Final Submissions**

Please find enclosed the final submissions of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.

Thank you.

Yours truly,

Michael Janigan
Counsel for VECC

Cc: Halton Hills Hydro Inc.

ONTARIO ENERGY BOARD

IN THE MATTER OF
the Ontario Energy Board Act, 1998,
S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF
an application by Halton Hills Hydro Inc. for an order
approving just and reasonable rates and other charges
for electricity distribution to be effective May 1, 2015.

Submissions of Vulnerable Energy Consumers Coalition (VECC)

VECC's submissions address Halton Hills Hydro's request for an adjustment to its base rates given its earnings in the prior year.

Over-Earnings in 2013

- Halton Hill Hydro's 2013 ROE is 14.97%.¹
- The Board's Filing Requirements state:²

3.2.10 Off-ramps

"For each of the Board's three rate-setting options, a regulatory review may be triggered if a distributor's earnings are outside of a dead band of +/- 300 basis points from the Board-approved return on equity. The Board monitors results filed by the distributors as part of their reporting and record-keeping requirements and determines if a regulatory review is warranted. Any such review will be prospective, and could result in modifications, termination or the continuation of the respective Price Cap IR or Annual IR Index plan for that distributor.

The Board reminds distributors that the filing of an application for an increase to base rates during the IR period or under the Annual IR index is the decision of the applicant; it is not a Board requirement. A distributor whose earnings are in excess of the deadband can refrain from seeking an adjustment to its base rates through a Price Cap IR or Annual IR Index plan. If not, the level of earnings may be raised as an issue in the application.

A distributor may choose to file only for disposition of Group 1 deferral and variance account balances in accordance with Board policies, without applying for adjustments to its base rates."

¹ 2013 Yearbook Data

² Chapter 3 Filing Requirements for Electricity Distributors Rate Applications for Price Cap Incentive Rate-Setting and Annual Incentive Rate-Setting Index dated July 25, 2014 (page 13)

- The table below shows Halton Hill Hydro's return on equity compared to the Board-approved return on equity³:

	2011	2012	2013	2014
Halton Hills Hydro Reported ROE	9.14%	13.30%	14.97%	Not Available
Board Approved ROE	8.57%	9.12%	9.12%	9.12%
Difference	0.57%	4.18%	5.85%	-

- Halton Hills Hydro indicates that variances between Actual ROE and Board Approved ROE can be the result of many factors that are not necessarily permanent or sustained earnings giving rise to over-earnings.⁴
- In response to Board Staff IR#4, Halton Hills Hydro indicates that in 2013 it recognized a "one-time" tax refund of \$977,797 relating to 2010, 2011 and 2013 that was due to a "timing difference" and not a permanent savings resulting from accelerating certain expenses for tax purposes, for which there are future tax liabilities.⁵ Halton Hills does not consider this one-time savings as "excess-earnings."⁶
- In Halton Hill Hydro's recent Z-Factor application (EB-2014-0211) Board Staff submitted that the origin and calculation of the 2013 tax refund and consequences on the utility's finances were unclear. In its reply submission, Halton Hills Hydro clarified that the 2013 income tax refund was primarily related to the implementation of Modified International Financial Reporting Standards (MIFRS), which enabled Halton Hills Hydro to deduct certain amounts for tax purposes that had been previously capitalized.
- Halton Hills Hydro's last Cost of Service application was for 2012 rates. Halton Hills Hydro indicates that the Grossed-Up Tax Amount incorporated into the Revenue Requirement underlying 2012 rates is \$28,979.⁷ VECC notes the 2013 tax refund amount is significant compared to the tax amount embedded in rates and collected from customers.
- Halton Hills Hydro's next Cost of Service application is scheduled for 2016 rates. Halton Hills Hydro confirms that future changes in taxes payable will be recognized in its next Cost of Service application. An accurate estimate of the future tax impact is not available at this time. However, in general Halton Hills Hydro indicates that income for tax purposes for 2014 and subsequent years will be increased since amortization for the amounts capitalized will be added back to income with no corresponding tax deduction as the costs were not

³ VECC IR#1(a)

⁴ Board Staff IR#4(f)

⁵ EB-2014-0211 Board Staff Pages 22-23, Rate of Return

⁶ Board Staff IR 4(b)

⁷ Board Staff IR#4(d)

capitalized for income tax purposes.⁸ The impact at rebasing is that customers will pay increased rates to reflect tax increases in the future and in the meantime there is a current benefit to Halton Hills Hydro that is not being shared with customers.

- VECC acknowledges that there can be items that do not reflect day to day operations that can result on over-earnings in a particular year.
- In addition to the one-time tax recovery, Halton Hills Hydro also referenced the recognition of 2012 recovery of LRAM revenue in accordance with EB-2011-0271 approving the historical recovery of all CDM programs related to Halton Hills Hydro's Third Tranche CDM activities from 2006 to 2010 as being not permanent or sustained earnings.⁹ VECC notes that the LRAM Rate Rider is in place for 24 months commencing May 1, 2012. VECC suggests that Halton Hills Hydro may wish to provide a calculation to normalize its 2012 and 2013 achieved ROE in its reply submissions to account for the LRAM revenue recovery to provide further details on the drivers of excess ROE.
- Given the one-time tax refund and recognition of LRAM as non-permanent or sustained earnings, Halton Hills Hydro feels it is reasonable to seek approval of its proposed 2015 distribution rates under the 2015 Incentive Regulation Mechanism (IRM).¹⁰
- Halton Hills Hydro calculated the incremental revenues that would result from the applied for increase to base rates in this application using the most recent approved weather normalized forecast consumption and customer numbers as \$149,884.¹¹
- VECC notes that earning in excess of 300 basis points could trigger a regulatory review to modify a utility's rate setting plan.
- VECC notes that under similar over-earning circumstances, the Board previously ordered Wasaga Distribution Inc. to file for early rebasing (EB-2011-0103).
- Based on the evidence in this proceeding, VECC submits that the level of over-earnings in 2012 and 2013 and possibly 2014 warrant evaluation by the Board on whether the Price Cap IR Plan for Halton Hills Hydro properly balances the interests of consumers in paying reasonable rates and the interests of the utility in earning a return. VECC requested a forecast of the level of earnings in 2014. Halton Hills Hydro did not provide a forecast of achieved Return on Equity for 2014, indicating it was not available.¹² Halton Hills Hydro

⁸ Board Staff IR#4(e)

⁹ Board Staff IR#4(f)

¹⁰ Board Staff IR#4(f)

¹¹ Board Staff IR#4(c)

¹² VECC IR#1(a)

responded to VECC's question as to whether or not it expected over-earnings to continue as "not applicable".

- In considering the above and consistent with the Board's Filing Requirements, VECC submits that given the revenue collected from Halton Hills Hydro results in a return in 2012 and 2013 and possibly 2014 that exceeds the deadband of the Board approved return, the Board should modify Halton Hill Hydro's Price Cap IR in 2015 (the year prior to rebasing) to deny the Price Cap adjustment requested in its application. VECC submits this approach appropriately responds to the interests of customers.

Recovery of Reasonably Incurred Costs

VECC submits that its participation in this proceeding has been focused and responsible.

Accordingly, VECC requests an order of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

All of which is respectfully submitted this 30st of January 2015.